IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI. APPLICATION NO. 4240 OF 2003

IN

CRI. APPEAL NO. / 2003

Shri Subhash Chimraya Patil .. Applicant.
V/s.
Shri Subhash Chimraya Patil & Anr. ..Respondents.

Mr. Nitin Jamdar for Applicant.
Mr. D.P. Adsule, APP for Respondent- State.

CORAM : V.M. KANADE, J.
DATED : 17.09.2004

PC :-

. Heard the learned Advocate appearing on behalf of Applicant. The applicant is challenging the order passed by the Judicial Magistrate, First Class, Mangalwedha, who has dismissed the complaint of the Applicant, which was filed under section 429, 468 and 471 of the Indian Penal Code. The case of the complainant was that the accused taking advantage of the similarity of the names, executed a sale deed in respect of the property which was owned by the complainant. The respondent accused admitted that he had executed the said sale deed. However, he alleged that he was owner of the said land. A civil suit was also filed by the Applicant herein, original

complainant against the Respondent accused, which is still pending in the civil court. The trial court, therefore, in view of the pendency of the civil suit dismissed the criminal complaint and therefore, granted benefit of doubt to the accused. The learned Advocate appearing on behalf of the Appellant submitted that in the civil suit, which was filed by him, the trial court had granted temporary injunction in his favour. It is submitted that this fact is not taken into consideration by the trial court, while acquitting the accused.

. I am unable to accept the said submission, as the said order of temporary injunction is granted, pending the hearing and final disposal of the suit. In any event, if the Appellant succeeds in the suit, the impugned document will be quashed. Thus I do not see any reason to interfere with the order of the trial court and the appeal is dismissed. It is clarified that the dismissal of the appeal will not affect the merits of the civil case. Leave refused.

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